Now that is over. You would report about this to the House. (*Interruptions*) I will allow it. The Hon. Minister has given something in writing. I will permit you. (*Interruptions*).

श्रीमती सरला माहेश्वरी (पश्चिमी बंगाल) : महोदया...

उपसभापति : बैठिए। अभी सब हो गए साथ में... **(व्यवधान)**

RE : FLASH STRIKE BY DELHI BAR ASSOCIATION

SHRI RAM JETHMALANI (Karnataka) : Madam, I am very grateful to you for permitting me to raise an issue which far transcends the issue of executive corruption or incompetence. It is an issue about how executive corruption and incompetence are being insidiously transferred and injected into our judicial system. The Delhi Bar Association has proceeded on a flash strike —an unprecedented action in the history of the Bar—over an appointment which has been made to the Delhi High Court. A lawyer who has been appointed to the Bench of the Delhi High Court is a lawyer who has been found guilty by the Vigilance Committee of the Supreme Court Bar Association of the most unethical professional... (*Interruptions*)...

THE DEPUTY CHAIRMAN : You speak about the strike, not about the Judge.

SHRI RAM JETHMALANI : No, I am not talking of Judges. I am talking of what the executive has done in this case. I tell you now, a Member, a very distinguished Member of this House has brought the fact of this gentleman's antecedents to the notice of the previous Law Minister. The previous Law Minister with his honesty and integrity, confessed that this man* and he assured the hon. Member that this man shall not be a Judge of the High Court. But after the Law Minister has gone, I understand that every adverse remark has been removed from the files and the Prime Minister has been misguided into signing the warrant of appointment of this gentleman.

*Expunged as ordered by the Chair.

THE DEPUTY CHAIRMAN : Mr. Jethmalani, you are a very eminent lawyer. I do not challenge your knowledge of law. But I would like to mention to you that in our House, the tradition, custom and practice is that—and it is also supported by the Constitution—we do not discuss...

SHRI RAM JETHMALANI : We are not supposed to discuss the conduct of a Judge of the High Court in the discharge of his duties. But I can certainly comment upon the corruption of the Law Ministry in having this man appointed.

THE DEPUTY CHAIRMAN : You can talk about the strike and not beyond that.

SHRI RAM JETHMALANI : Now something has got to be done because the entire Bar has gone on strike. This is going to affect the entire image of the judiciary if you appoint people like this to the judiciary. The rule of law and the Constitution are not going to be safe in this country... (*Interruptions*)...

THE DEPUTY CHAIRMAN : The Minister wants to respond and I will permit him.

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ) : Madam Deputy Chairman, I thought that the hon. Member is aware of the Constitutional provision. He is a sitting Member and he should not comment adversely against any Judge. But he has chosen to do so. I would like to respond to... (*Interruptions*)...

SHRI RAM JETHMALANI : Madam, the appointment was given at midnight. This man was sworn in secret at 10 O'clock in the absence of the Bar. It was a midnight appointment.

श्री चतुरानन मिश्र (बिहार) मार्निंग में भी एपॉइंटमेंट होने से... **(व्यवधान)**

THE DEPUTY CHAIRMAN : Let the Minister reply to what you have said.

SHRI H. R. BHARDWAJ : He is in the habit of misguiding everybody in the nation. He is such a person about whom everybody knows. He is * I can tell you. ...(*Interruptions*)...

*Expunged as ordered by the Chair.

SHRI S. JAIPAL REDDY (Andhra Pradesh) : No, he must withdraw... (*Interruptions*)... Madam, I am on a point of order... (*Interruptions*)...

THE DEPUTY CHAIRMAN : Mr. Afzal this is a very bad habit. You have been allotted a seat, you go back to your seat.... (*Interruptions*)... Never mind, even if anything has been spoken wrongly, you can object to it from your seat. Please go back... (*Interruptions*)... I said, go back.

SHRI S. JAIPAL REDDY : Madam, I am on a point of order... (*Interruptions*) ...

SHRI H. R. BHARDWAJ : What kind of a person are you ? What kind of a man are you ? You have * every person in this country. What... (*Interruptions*) ... person are you ? ...(*Interruptions*)... First, I should be given an opportunity to say about it.

SHRI S. JAIPAL REDDY : Madam, I am on a point of order... (*Interruptions*) ... Madam Deputy Chairperson has been good enough to identify me. Let me formulate my point of order.

Madam, I do not want to go into the merits or facts of the case. They are known to us. But the expressions used by the hon. Law Minister... (*Interruptions*) ...

SHRI G. G. SWELL (Meghalaya) : The word * should go. Nobody can use that word ... (*Interruptions*)...

THE DEPUTY CHAIRMAN : Take your seat. I will go through the record.

SHRIMATI KAMLA SINHA (Bihar) : He must apologise.

SHRI S. JAIPAL REDDY : The Minister while referring to the hon. Member, Mr. Ram Jethmalani called him.* These expressions are not only unparliamentary but they are also outrageous and obnoxious. The hon. Minister must apologise. Otherwise, you must name the Minister. A mere expunction will not do.

*Expunged as ordered by the Chair.

THE DEPUTY CHAIRMAN : Will you please take your seat ?

SHRI S. JAIPAL REDDY : You will have to name the Minister.

The DEPUTY CHAIRMAN : Okay. Now, will you please take your seat ?

SHRI G. G. SWELL : You cannot use the word * against another Member. It is unparliamentary. It is abominable. He must withdraw it and he must apologise.

THE DEPUTY CHAIRMAN : Please take your seat.

THE LEADER OF THE OPPOSITION (SHRI SIKANDER BAKHT) : We cannot take this sort of language. We are not going to take it. It is absolutely... (*Interruptions*). You are a Minister. (*Interruptions*). You should know enough to use gentlemanly language, civilised language.

हम लोग यहां बाजार के चौराहे पर नहीं खड़े हुए हैं कि इस किस्म की बेहूदा जुबान यहां इस्तेमाल की जाए । . . . (व्यवधान)

ہم لوگ یہاں بازار کے چوراہے پر نہیں کھڑے ہوئے ہیں کہ اس قسم کی بیہودہ زبان یہاں استعمال کی جائے۔ ... "مداخلت"

We are not going to take it.

SHRI S. JAIPAL REDDY : If I were in the Minister's place, I would have apologised. (*Interruptions*). Mr. Bhardwaj, if I were in your position, I would have apologised. You have to apologise.

THE DEPUTY CHAIRMAN : Just a minute, please. (*Interruption*). Mr. Japial Reddy, will you please take your seat ?

SHRI SIKANDAR BAKHT : Let him apologise.

THE DEPUTY CHAIRMAN : It is a point of order. Let me handle it. (*Interruptions*).

बैठ जाइये, बैठ जाइये... (व्यवधान)

एक मिनट आप रुकिए ।

*Expunged as ordered by the Chair.

† [ ] Transliteration in Arabic script.

I had told Mr. Jethmalani that it was a Constitutional... (*Interruptions*). Just a minute, please. Mr. Jaipal Reddy, you cannot do this to the Chair.

SHRI S. JAIPAL REDDY : You please give a ruling on that.

THE DEPUTY CHAIRMAN : I am giving my ruling. You cannot put your ruling into my mouth. I will give the ruling which I think is right. (*Interruptions*). Please, just do not disturb me. I had told Mr. Jethmalani that according to the Constitution, we cannot discuss the conduct of the Judge. The appointment of a Judge ...(*Interruptions*). Will you allow me to speak ? Or will you continue to speak ? You are welcome to do it.

SHRI G. G. SWELL : I am on a point of order.

THE DEPUTY CHAIRMAN : I am not permitting it. Please take your seat.

SHRI G. G. SWELL : Please permit me later on.

THE DEPUTY CHAIRMAN : His paper, which is in my hands, says 'strike' and the 'strike' was permitted. There is a very thin line in between. You all know it and I also know it. You can criticise the Government, but you cannot say... (*Interruption*). I very correctly remember and I pointed out to you that you cannot say that the Judge is corrupt and he is being appointed by the Government. You could have said you object to the appointment of a certain person. I am going to look into the records. As far as the words which were used by the Minister are concerned, if you feel so unhappy, they will be expunged because they are unparliamentary. (*Interruptions*).

SHRI S. JAIPAL REDDY : We want the Minister to apologise. Mr. Bhardwaj is a good personal friend of mine. I am advising him to apologise. (*Interruptions*).

उपसभापति : अफजल साहब आपको मैं कितनी बार बोलूं ? आप अपनी जगह से बैठ कर बोला कीजिए । यह बड़ी खराब आदत है । यह बड़ी खराब आदत है, मैं आपको बता रही हूं । ...(**व्यवधान**) नहीं, आप बैठिए भी ... (**व्यवधान**) आप बोले हैं और आप वहीं जाइए, प्लीज । ... (**व्यवधान**)

श्री मोहम्मद अफजल उर्फ मीम अफजल (उत्तर प्रदेश) : मैंने अभी नहीं बोला ।

†شری محمد افضل عرف م۔ افضل: میں نے ابھی نہیں بولا ہے۔

उपसभापति : आप बोल रहे हैं । आप वहीं जाइए । ...(**व्यवधान**)

श्री मोहम्मद अफजल उर्फ मीम अफजल अगर आपको मेरे बैठने पर एतराज है तो मैं चला जाता हूं ।

†شری محمد افضل عرف م۔ افضل: اگر آپکو میرے بیٹھنے پر اعتراض ہے تو میں چلا جاتا ہوں۔

उपसभापति : आप अपनी जगह से बोलिए, मुझे कोई एतराज नहीं है ।

श्री मोहम्मद अफजल उर्फ मीम अफजल मैंने एक लफ्ज नहीं बोला ।

†شری محمد افضل عرف م۔ افضل: میں نے ایک لفظ نہیں بولا۔

उपसभापति : अच्छा आप वहां बैठिए ... (**व्यवधान**) आप बहस मत कीजिए ।

श्री मोहम्मद अफजल उर्फ मीम अफजल मैंने अभी नहीं बोला ।

†شری محمد افضل عرف م۔ افضل: میں نے ابھی نہیں بولا۔

उपसभापति : अच्छा बैठिए । मगर बोलिए नहीं । बोलना हो तो अपनी जगह से बोलें ।

†[ ] Transliteration in Arabic Script.

श्री एस. एस. अहलूवालिया (बिहार) महोदया, इस सदन में जो कुछ भी हुआ है यह दुर्भाग्यपूर्ण है एक ऐसा मुद्दा लेकर जो कि सब के लिए संसद् के लिए . . . **(व्यवधान)**

SHRI S. JAIPAL REDDY : We are on the point of order now, not on the substantive issue.

श्री एस. एस. अहलूवालिया : यह ऐसे मुद्दे को लेकर जिसके बारे में जितने सांसद् हैं सभी चिंतित हैं और ऐसी बातें सभी संसद में उठाना चाहते हैं । कभी-कभी तरीका कुछ ऐसी गर्माहट सदन में पैदा कर देता है कि विपक्ष और प्रतिपक्ष में तनाव आ जाता है । . . . **(व्यवधान)**

एक माननीय सदस्य : विपक्ष और प्रतिपक्ष ?

SHRI S. JAIPAL REDDY : Mr. Ahluwalia is in the 'prathipaksh'.

श्री एस. एस. अहलूवालिया : विपक्ष और सत्ता पक्ष में कुछ विवाद आ जाता है, तनाव आ जाता है । जिस तरह से भारद्वाज जी ने एक संसद् सदस्य के बारे में जो बातें कही हैं मैं समझता हूं वह बिना सोची-समझी बातें हैं और गुस्से में कही गयी हैं ।

श्रीमती कमला सिन्हा : उनको माफी मांगनी चाहिए ।

श्री एस. एस. अहलूवालिया : मेरी बात खत्म होने दीजिए । यह दुर्भाग्यपूर्ण बात है कि सत्ता पक्ष में बैठकर एक मंत्री अपना संतुलन खो बैठे और एक सदस्य की सांस की इस तरह से भर्त्सना की जाए पर इसके साथ-साथ मैं यह भी कहना चाहूंगा कि विपक्ष में बैठकर हम कभी-कभी संतुलन खोकर बहुत गलत बातें कह देते हैं । तो मैं समझता हूं कि इस तनाव को कम करने के लिए सही तरीका यही है कि भारद्वाज जी अपने अल्फाज वापिस लें और जेठमलानी जी भी अपने अल्फाज वापिस लें और बात को खत्म करें । यही मेरा कहना है ।

उपसभापति : भारद्वाज जी तो ले ही लेंगे । वह तो कह ही देंगे ।
He has no objection to it.

श्री एस. एस. अहलूवालिया : उपसभापति जी, यह सुझाव एक ऐसा सदस्य दे रहा है जोकि इस सदन में ज्यादा-से-ज्यादा तनाव पैदा कर सकता है, पर मैं सारी चीजें समझकर-सोचकर कह रहा हूं कि ऐसी घटना नहीं घटनी चाहिए । मैं जब कह रहा हूं तो उसके पीछे कोई कारण है और इस चीज की गंभीरता को समझते हुए इन अल्फाजों को वापिस लेना ही समझदारी की बात होगी । मैं रिक्वेस्ट करूंगा कि आप मंत्रीजी को और सदस्य दोनों को निर्देश दें कि वे अपने अल्फाज वापिस लें ।

उपसभापति : भारद्वाज जी आप दोनों आपस में दोस्ती कर लीजिए क्योंकि आप दोनों ही लायर हैं ।

SHRI H. R. BHARDWAJ : Madam, if you permit me to speak for two minutes, I will explain the position. I am very sorry for what happened here. The hon. Member raised a very important question. (*Interruptions*) Mathur Ji, I have told you that I don't stand on prestige on this issue. If it is a question of the prestige of this House, I would be the first person to tender any type of apology which is required. But you see we are all going in a wrong direction. The hon. Member may be a very eminent lawyer but there are rules of procedure under which all of us work. Madam, this is a convention of the House that the conduct of Judges is not discussed here. What upsets me most is this. I have seen it many times; there is a tendency among the people, they may not agree on certain issues, they may not agree on certain appointments. We are amenable to all types of scrutiny by courts and by Parliament also. The Government can be criticised that a particular policy is not good, a particular procedure is not good. But to state the facts in a distorted manner that the warrant was given at midnight is not good. There was no midnight warrant. The warrant was sent absolutely in the day time to the Registrar of the High Court and the High Court issues its own notice to

the hon. Judges for the swearing-in ceremony. The Governor delegates the power to the Chief Justice I never expect from a senior colleague like him to say all these things without any sense of responsibility. That is why I am feeling upset. Mr. Ram Jethmalani is not a new member of the Bar. He is not a new MP. If he wanted to know something he could have told me about the same that such and such things are happening and I would have gone over to his seat and explained the position. But to make allegations at random is not a good thing. If he adheres to his allegation now, I would be very happy. I would request you, Madam, to supply me a copy of his speech which he has made in the House and I will send my comments. In fact, whatever he said is totally baseless. This appointment was never denied by Vijaya Bhaskara Reddy or any other Minister. This appointment was never objected to by the Chief Justice of the Delhi High Court or the Chief Justice of India. We had received a complaint from the members of Bar 12 years ago. There was some controversy in the Bar. The Prime Minister himself had ordered an enquiry into this. I have not dealt with the enquiry. We announced this appointment after ensuring that all the members of the Bar Council were satisfied that he is a gentleman. Now, you may not like certain persons; I may not like certain persons, but once the constitutional consultations have taken place and the Bar Council of Delhi, the members of the Bar Council, are consulted by the Chief Justice of the Delhi High Court, I don't come into the picture. To impute motives that it is on account of corruption is to make an allegation. If he wants to level any allegation against me or any person in the Law Ministry, then for that, I must receive an advance notice. This is the rule. Even now, I would like him to raise this issue in a proper way. But he should not distort the facts. And so far as the personal allegation is concerned, I said two words to him. One is that he is * I unconditionally withdraw that. In the heat of the moment you can say. I never meant ... (*Interruptions*)...

SHRI G. G. SWELL : You said * also.

*Expunged as ordered by the Chair.

SHRI H. R. BHARDWAJ : Eeven * ... (*Interruptions*)... And I am saying it... (*Interruptions*)...

THE DEPUTY CHAIRMAN : He is withdrawing whatever it is ... (*Interruptions*)...

SHRI G. G. SWELL : You said * also.

SHRI H. R. BHARDWAJ : I am coming to that also. I withdraw both these words. ...(*Interruptions*)... I withdraw both these words. I have the highest regard for him as a senior member of the Bar * Neither is he* I withdraw them. I am telling... *Interruptions*)...

THE DEPUTY CHAIRMAN : That is over.

SHRI H. R. BHARDWAJ : But we have a certain style of talking to each other. It is not one-day old, but it is a decade old ... (*Interruptions*)... But in case a certain hon. Member wants certain clarifications on such things, there is a method of knowing them.

THE DEPUTY CHAIRMAN : All right. Mr. Surjewala. ...(*Interruptions*)... What is left now ? Mr. Surjewala. That matter is over. Mr. Surjewala.

SHRI RAM JETHMALANI : Madam, I want to make a submission.

THE DEPUTY CHAIRMAN : You have completed it now. So much *hungama* was on it.

SHRI RAM JETHMALALI : I have to make a point.

SHRI S. JAIPAL REDDY : Madam, the real issue was about the flash strike and the hon. Minister has not responded to the background in which such a flash strike has been triggered.

THE DEPUTY CHAIRMAN : What more flashlight do you want from him when he has already told it ? That is enough.

SHRI H. R. BHARDWAJ : Madam, I would like to respond to the flash strike also. There are two issues on which there

*Expunged as ordered by the Chair.

is a strike. One is the amendment to section of the Advocates Act, but that issue also I was discussing with the members of the Bar. On this issue nobody in the Bar, neither the President nor the Secretary, has ever told me that anybody is resentful of this. Whatever decision the Bar Association may take, I am not a party to their decision. If they have any complaint against anybody, there is a method by which they can bring it to my notice or to the notice of the Chief Justice of India. We will talk to them. I am fully aware that if there is a resentment, we have to talk to the members of the Bar, but this type of allegation of a midnight warrant is totally against the facts. If I show the time when the warrant was sent by the Ministry to the Court, then it will be totally against what he said. I don't want to embarrass him on this.

THE DEPUTY CHAIRMAN : Now that matter is closed. Mr. Surjewala.

SHRI RAM JETHMALANI : Madam, will you give me half a minute ?

THE DEPUTY CHAIRMAN : Mr. Jethmalani, you have finished whatever mention you were making.

SHRI RAM JETHMALANI : I will never make a judgment about a judge. I am not talking of the judge's conduct as a judge because he has not started working but I talked of his previous antecedents. Will the hon. Minister deny that a Vigilance Committee of the Supreme Court Bar Association found him guilty of a serious malpractice and he tendered an apology ?

THE DEPUTY CHAIRMAN : He will find out.

SHRI RAM JETHMALANI : He will find out ? O.K.

THE DEPUTY CHAIRMAN : He said it.

SHRI RAM JETHMALANI : This is the second instance which has happened. In 1991 they appointed another Judge who had no legal qualifications, but the warrant of appointment was issued. We went to the Supreme Court. The Supreme Court set aside the warrant of appointment. The man was found not qualified. This is what is happening today, in the Law Ministry.

THE DEPUTY CHAIRMAN : Now he has asked... (*Interruptions*)... He is not obliged. I must say he is not obliged to answer a Special Mention in the House, but he is doing it This issue is... (*Interruptions*)...

SHRI H. R. BHARDWAJ : I don't expect Mr. Ram Jethmalani to... (*Interruptions*)... Madam, if there was a case of Mr. Justice Srivastava—I think the hon. Member may be referring to it ... (*Interruptions*)... That is the case he may be having. He was a Judicial Officer. It was found that he never worked as a judge, but he worked as a Law Secretary and a technical defect was found by the Supreme Court. That happened when I was not in the Law Ministry. There were some appointments, but on this particular issue I am putting ... (*Interruption*)...

SHRI RAM JETHMALANI : But please don't accuse me of irresponsibility and I go by precedents. I have set aside ... (*Interruptions*)...

THE DEPUTY CHAIRMAN : That matter is closed. Mr. Minister, that matter is closed. ...(*Interruptions*)...

SHRI H. R. BHARDWAJ : For our personal explanation ... (*Interruptions*)...

SHRI RAM JETHMALANI : Madam, I don't know it from Adam but I have only heard of it in the newspaper and this morning I took care to telephone to the President of the Delhi Bar Association, I got the facts verified, then I came to the House. ...(*Interruptions*)...

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS WITH ADDITIONAL CHARGE OF THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRIMATI MARGARET ALVA) : Madam, he is making ... (*Interruptions*) ...

SHRI RAM JETHMALANI : But I am not irresponsible.

SHRI H. R. BHARDWAJ : I may tell you... (*Interruptions*)... Who says you are irresponsible ? Here we are bound by a certain code of conduct and according to that, I am only submitting what you said. ... (*Interruptions*)... No, what you said ... (*Interruptions*)... There are three or four things. When I came to listen to this, there were certain facts which I never expected of him to mention without any verification. He will verify that and then put it before the House. He himself has said, "I don't know Mr. Arun." I am very happy that he has said so. If he had known him I would have relied on him because his information cannot be wrong. After all, at this age he will not give any wrong information. (*Interruptions*)...

THE DEPUTY CHAIRMAN : Now that matter should be taken as closed. (*Interruptions*)...

SHRI H. R. BHARDWAJ : Madam, I am only submitting that so far as the strike is concerned, there are various other issues which have been linked up. Today there is no strike. I have talked to the advocates yesterday about the matter on which this strike was there—the Advocates Amendment Act. We are talking to them. What I am submitting is that so far as this particular gentleman is concerned, he has been recommended by the Chief Justice of India and then his appointment has been made. I can assure you this thing that we have made full enquiries into whatever complaints were there and they were found totally wrong. Therefore, it was totally in accordance with the procedure. His appointment was withheld for two months. That was obviously to satisfy every aspect of it. That is why I am saying this.

THE DEPUTY CHAIRMAN : Thank you, Mr. Bhardwaj. Mr. Surjewala.

SHRI H. HANUMANTHAPPA (Karnataka) : Madam, ...

THE DEPUTY CHAIRMAN : What is the problem now ?

SHRI H. HANUMANTHAPPA : Madam, I will take only one minute. Before the heat was generated my hon. friend, Mr. Jethmalani, had used some words about the judge appointed. I think it would be embarrassing to any judge if such things go on record. I only appeal to you to look into the record and if some of those references affect him, you please delete them.

THE DEPUTY CHAIRMAN : Thank you. I have already said that if anything ... (*Interruptions*)...

SHRI RAM JETHMALANI : If Mr. Hanumanthappa points out the words he wants me to withdraw I will withdraw them, otherwise he shouldn't demand. (*Interruptions*)...

THE DEPUTY CHAIRMAN : You don't worry. (*Interruptions*)...

SHRI RAM JETHMALANI : You tell me the words.

THE DEPUTY CHAIRMAN : I will look into the record and do the job for both of you. Mr. Surjewala.

RE TRANSFER OF CHANDIGARH AND CONSTRUCTION OF S.Y.L. CANAL

SHRI S. S. SURJEWALA (Haryana) : Madam, I am raising issues concerning the inter-State matters of Punjab and Haryana. As everybody knows, there are certain territorial issues, including Chandigarh, and the river-waters issue. These two issues between these two States have been hanging fire for a long time. Sardar Beant Singh, the hon. Chief Minister of Punjab, has made a statement pertaining to these issues. One is that he has said that Chandigarh is going to go to Punjab and no territories, including Fazilka and Abohar and other areas, are going to go to Haryana. The second is that he has made a statement in the Vidhan Sabha that though he thinks the SYL canal would be completed and the farmers of Haryana also need water—that is a good statement and we must congratulate Sardar Beant Singh on that—the construction of the SYL canal should be linked with the decision of the river matters between the two States. These two statements by the Punjab Chief Minister have caused a lot of resentment and serious apprehension in the minds of the people of Haryana. I would like to state that the hon. Home Minister